

REMARKS

Entry of the foregoing amendments is respectfully requested. Claims 1 and 20 have been amended. Claims 1-20 are currently pending in the application. Favorable reconsideration and allowance of this application is respectfully requested in light of the foregoing amendments and the remarks that follow.

1. Rejections Under 35 U.S.C. § 102

In the Office Action, the Examiner has rejected claims 1-9, 11, 13-18 and 20 under 35 U.S.C. 102(b) as being anticipated by Silvenis et al., U.S. Patent 5,150,841 (the '841 patent).

Applicants respectfully traverse the Examiner's rejections to claims 1-9, 11, 13-18 and 20 based on the '841 patent. More specifically, independent claims 1, 17 and 20 each require that the opposite end of the rod disposed within the chamber is "selectively engageable with the fluid outlet during operation of the vibration generating mechanism."

In contrast, the '841 patent, while showing an apparatus that includes a vibration generation mechanism, a pumping chamber and a rod connecting the mechanism and the chamber within a single housing, the rod identified at 205 in the '841 patent by the Examiner is not engageable with the fluid outlet identified at 213 in the '841 patent by the Examiner. During the entire operation cycle of the device in the '841 patent, the rod 205 never engages the fluid outlet 213 as required by claims 1 and 17.

Further, claim 20 as amended requires that the plate on the rod directly engage the inner end of the fluid outlet to urge the fluid out of the fluid outlet. As stated previously, the apparatus disclosed in the '841 patent does not include a rod that directly engages the inner end of the fluid outlet. Further, even if the rod 205 were to engage the fluid outlet, it would prevent any further outflow of the fluid from the fluid outlet, as opposed to further dispensing fluid through the outlet as required by claim 20.

As a result, the subject matter of claims 1, 17 and 20 is neither shown nor described by the '841 patent, such that claim 1, and claims 2-9, 11 and 13-16, which depend from claim 1, claim 17 and claim 18 that depends for claim 17 and claim 20 are allowable. Therefore,

Serial No. 10/655,340 - Lishanski et al.
Art Unit 3746 – Attorney Docket 423.008
Response to Office Action (Final Rejection) dated December 31, 2007
Page 6 of 8

applicants respectfully request that the Examiner withdraw the rejections to claims 1-9, 11, 13-18 and 20 based on the '841 patent.

2. Claim Rejections Under 35 USC § 103

a) Claim 12

In the Office Action, the Examiner has rejected claim 12 under 35 USC § 103(a) as being unpatentable over the '841 patent.

Applicants respectfully traverse the Examiner's rejection of claim 12 based on the '841 patent. More particularly, for the reasons stated previously concerning the rejection of claims 1-9, 11, 13-18 and 20, the subject matter of claim 12, which depends from claim 1, is also not shown or suggested by the '841 patent.

As a result, claim 12 is allowable based on its dependency from claim 1 and applicants respectfully request that the Examiner withdraw the rejection to claim 12.

b) Claim 19

In the Office Action, the Examiner has rejected claim 19 under 35 USC § 103(a) as being unpatentable over the '841 patent in view of Blackbourn et al., U.S. Patent 6,401,752 (the '752 patent).

Applicants respectfully traverse the Examiner's rejections of claim 19 based on the '841 patent in view of the '752 patent. As stated previously, independent claims 1, 17 and 20 each require that the opposite end of the rod disposed within the chamber is "selectively engageable with the fluid outlet during operation of the vibration generating mechanism."

In contrast, claim 19 depends from claim 17, which as discussed previously, is allowable in light of the '841 patent which does not disclose a rod secured to a vibration generating mechanism at one end and having an opposite end disposed within the chamber that is selectively engageable with the fluid outlet during operation of the vibration generating mechanism, as required by claim 17.

The '752 patent is unable to overcome this deficiency of the '841 patent. More specifically, the '752 patent, discloses a tap having a valve element 20 disposed on a movable valve stem 22 that can selectively open and close both a liquid outlet 12 and an air inlet 13. The

valve element 20 includes a sealing bead 21 that engages the walls 24 of the fluid inlet 10 to seal the inlet 10.

However, it would not be obvious to one of ordinary skill in the art to combine the ‘841 patent with the ‘752 patent. This is because the only component of the apparatus of the ‘841 patent that is the functional equivalent of the valve element 10 of the ‘752 patent is the diaphragm 221. By substituting the valve element 10 for the diaphragm 221, the apparatus of the ‘841 patent would not be operable, because the operation of the valve element 10 functions to either completely close off or to completely open the air and fluid inlets or outlets. This is because in the ‘752 patent it is only the internal pressure within the container or the force of gravity that acts on the fluid and air to dispense the fluid from through the open valve. In contrast, in the ‘841 patent, the movement of the rod effectively opens and closes both an inlet valve and an outlet valve formed by the diaphragm to dispense the fluid. As a result, the substitution of the valve member 10 for the diaphragm 221 in the apparatus of the ‘841 patent would prevent the simultaneous opening and closing of the fluid inlet and fluid outlet to the chamber required for operation of the apparatus of the ‘841 patent, rendering the device of the ‘841 patent inoperable, which argues directly against any suggestion or motivation to combine the ‘752 patent with the ‘841 patent to arrive at the claimed invention. (MPEP 2143.01)

Therefore, the subject matter of claim 17, from which claim 19 depends, is not shown or suggested by the combination of the ‘841 and ‘752 patents, such that claims 19 is allowable based on its dependency from claim 17.

As a result, applicants respectfully request that the Examiner withdraw the rejection to claim 19.

Serial No. 10/655,340 - Lishanski et al.
Art Unit 3746 – Attorney Docket 423.008
Response to Office Action (Final Rejection) dated December 31, 2007
Page 8 of 8

CONCLUSION

It is submitted that claims 1-20 satisfy the requirements of 35 U.S.C. §§ 102 and 103 and each define patentable subject matter. A Notice of Allowance is therefore respectfully requested.

No fees are believed to be required with this response. However, authorization is given to charge any additional fees or credit any overpayment in connection with this or any future communication to Deposit Account No. 50-1170.

The Examiner is invited to contact the undersigned by telephone if it would help expedite the allowance of this application.

Respectfully submitted,



Mathew E. Corr
Reg. No. 45,434

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Boyle Fredrickson, S.C.
840 North Plankinton Avenue
Milwaukee, WI 53203
Telephone: (414) 225-9755
Facsimile: (414) 225-9753
Email: mec@boylefred.com
Customer No. 23598